

Serial No. 09/835,936  
Reply to Office Action of August 11, 2005

### **REMARKS/ARGUMENTS**

Claims 1-17 were presented for examination and are pending in this application. In an Official Office Action dated August 11, 2005, claims 1-17 were rejected. The Applicant thanks the Examiner for his consideration and addresses the Examiner's comments concerning the claims pending in this application below.

Applicant herein amends claims 1 and 11 and respectfully traverse the Examiner's prior rejections. No claims are presently canceled and no new claims are presently added. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution and issuance of the application. In making this amendment, Applicant has not and is not narrowing the scope of the protection to which the Applicant considers the claimed invention to be entitled and does not concede, directly or by implication, that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, Applicant reserves the right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and withdraw them.

#### **Rejection of the Claims under 35 U.S.C. §102(e)**

Claims 1-17 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,513,061 ("Ebata"). Applicant thanks the Examiner for the consideration of the claims and his comments. Applicant has herein amended independent claims 1 and 11 and are believed to be in condition for allowance.

The Applicant respectfully asserts that the claims, as currently amended, recite features lacking in the applied references. For example, independent claim 1 recites, among other things, "means within the intermediary server responsive to a

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plurality of received web access requests for prioritizing amongst the received web access requests based on priority information within the requests to establish a priority request, the priority request to establish a channel with the data storage mechanism to obtain data from the data storage mechanism in response to the priority request wherein alternative data requests are established with the data storage mechanism responsive to determining that the data mechanism is unable to respond to the priority request...."

Support for the above referenced amendments can be found generally on pages 21 and 30 of the specification.

Ebata appears to disclose "a comfortable working environment to a client in which only by specifying a logical node name of a server for providing a target service the client would like to reach, the most approximate proxy server to the client can be automatically selected in consideration of the loads burdened on the network and the server and the location of the client." Ebata et al. Col. 4, lines 22-29.

To achieve this environment, Ebata et al. discloses a dynamic DNS server that is arranged to manage "location information and load conditions of the proxy servers distributed located [sic] on a network, constantly select the proxy server having the most approximate access environment to a client based on the location information of the client and the managed content then notify the client of an address of the server corresponding to the domain name inquired by the client, and notify the client of the address of the selected proxy sever." Ebata et al. Col 4, lines 36-44.

Ebata neither discloses an intermediary server that prioritizes web access requests based on information within the requests nor process by which the intermediary server (proxy) can establish alternative requests if the web server is unable to respond to the primary request. As each and every element of a claim

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must be disclosed in a single reference, either expressly or inherently, to be anticipated by that reference, the Applicants submit that Ebata does not anticipate independent claim 1. Claims 2-10 depend from claim 1 and are for at least the same reasons not anticipated by Ebata.

Independent claim 11 likewise claims, among other things, an intermediary server that prioritizes web access requests to be submitted to a data storage device as well as establishes alternative requests should the data storage device be unable to respond to the submitted particular request. Ebata fails to disclose these limitations and therefore does not anticipate claim 11. Claims 12-17 depend from claim 11 and are, for the same reasons, not anticipated by Ebata.

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicant's attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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